

**London Boroughs of Brent & Harrow  
Trading Standards Joint Advisory Board**  
9 June 2021  
**Report from the Senior Service Manager**

**FOR INFORMATION**

**NEW NATIONAL REGULATOR FOR CONSTRUCTION  
PRODUCTS**

**1.0 Purpose of the Report**

- 1.1 This report provides Members with an update on the Government announcement on the 19 January 2021 that a new national regulator to oversee the enforcement of the legislation related to construction products is to be established. Currently, market surveillance and enforcement of construction products safety is the responsibility of local authority trading standards services. It is intended this new regulator will work alongside the trading standards service.

**2.0 Recommendations**

- 2.1 That Joint Advisory Board Members are asked to note the information as contained within the report and make comments where appropriate.

**3.0 Details**

- 3.1 On the 19 January 2021 the Government announced the establishment of a national regulator, responsible for ensuring that materials used to build homes will be made safer.
- 3.2 The new regulator for construction products will have the power to remove any product from the market that presents a significant safety risk and take formal action, including prosecution, against any companies who flout the rules on product safety.
- 3.3 This follows recent testimony to the Grenfell Inquiry that shone a light on the alleged dishonest practice by some manufacturers of construction products, including deliberate attempts to avoid the legislative requirements by allegedly not carrying out the requisite safety tests in the prescribed manner.
- 3.4 Regulated construction products are defined legally as "*any product or kit which is produced and placed on the market for incorporation in a permanent manner in construction works or parts thereof and the performance of which has an effect on the performance of the construction works with respect to the basic requirements for construction works*". Examples include doors, windows, gates, membranes, and insulation products.
- 3.5 The regulator is expected to hold strong enforcement powers including the ability

to conduct its own product-testing when investigating concerns. Businesses must ensure that their products are safe before being sold in addition to testing products against safety standards.

- 3.6 This announcement is seen as marking the next major step in the government's overhaul of regulatory systems affecting construction. Regulatory reform includes the publication of a Building Safety Bill, representing the biggest improvements to the regulations in 40 years, and a new Building Safety Regulator that is already up and running in shadow form.
- 3.7 Currently, Trading Standards are required to undertake market surveillance and enforcement of construction products. Although general product safety is a priority for the Service, construction products are a specialised area of law and items are usually expensive to test purchase and submit for testing thereby making it difficult for small local authority Trading Standards teams to carry out enforcement work.
- 3.8 Trading Standards carry out the enforcement of the Construction Products Regulations 2013 and have powers to issue notices or take formal action against economic operators (manufacturer, importer, distributor or authorised representative) who contravene the requirements of the regulations and supply non-compliant products. Officers are in a position to influence manufacturers and importers with regards to ensuring that products meet specifications and are tested and marked accordingly, but they are not best placed to be undertaking the role of assessing and enforcing what the building trade actually use in construction.
- 3.9 There is still little information about the regulator, but it is expected to operate within the Office for Product Safety and Standards (OPSS) which will be expanded and given up to £10m in funding to establish the new function. It will work with the Building Safety Regulator and local authority Trading Standards services to encourage and enforce compliance.
- 3.10 The new Building Products Regulator will establish a new regulatory system for building safety based on the findings of the government commissioned independent review. They will have the power to examine weaknesses in previous testing regimes for construction products and to recommend how abuse of the testing system can be prevented. It is expected that the new regulator will work with Trading Standards who will continue to conduct testing, inspections and of enforcement of the revised legislation.
- 3.11 The new regulator will be able to contribute to the government's pledge that a Grenfell type disaster should never happen again.

## **4.0 Financial Implications**

- 4.1 At the time of writing this report, no details have been provided as to whether there will be any specific funding made available to local authorities to assist with any enforcement duties that may arise. There are no financial implications, but this will be reviewed once the independent review has made its recommendations.

## **5.0 Legal Implications**

5.1 It is not yet clear whether there will be any statutory requirement for local authority Trading Standards to work with the new regulatory or whether this obligation will be discretionary. Nor are there any details provided on the level of commitment that might be required to any joint working arrangement.

## **6.0 Equality Implications**

6.1 The proposals in this report have been screened to assess their relevance to equality and were found to have no equality implications.

## **7.0 Consultation with Ward Members and Stakeholders**

7.1 There is no requirement to specifically consult Ward Members about this report as it affects all wards across both Boroughs.

## **8.0 Human Resources Implications**

8.1 There are no human resource or property implications arising from this report although it should be noted that the number of staff vacancies currently within the Service may result in a reduced ability to generate income, as well as the continued restrictions during the pandemic.

### **Contact Officer**

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